

In Re: Joseph & Mary S. Kirkland)
Ward 56, Block 14, Parcel 1)
Residential Property) Shelby County
Tax year 2005)

Statement of the Case

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|------------|-------------------|-------------|------------|
| \$194,400 | \$175,000 | \$369,400 | \$92,350 |

The undersigned administrative judge conducted a hearing of this matter on April 5, 2006 in Memphis. In attendance at the hearing were Joseph T. Kirkland, Jr., Esq., co-owner of the property in question, and Shelby County Property Assessor's representative Teri Brandon.

The property in question is a four-bedroom, three-bath house at 4795 Shady Grove, in an upscale area of Memphis. Built in the late 1940s on a 0.62-acre lot, this brick-veneer home contains 3,358 square feet of living area. Other improvements to the property include a carport and swimming pool.

Among the exhibits to Mr. Kirkland's testimony was a color-coded map of the vicinity showing where houses had been torn down by the buyers. In addition, from a list of over 30

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"comparables" he obtained from the Assessor's Web site, Mr. Kirkland selected five houses of similar age with the identical number of rooms (9).² Whereas the average sale price per square foot for those houses was \$100.46, his house is currently appraised at \$110.00 per square foot.

Ms. Brandon's comparative sales analysis indicated a value range of approximately \$98-\$144 per square foot for the appellants' house. While acknowledging the reality of the "tear-down" factor in the neighborhood, the Assessor's representative believed this trend to be confined mainly to undersized homes of less than 3,000 square feet. None of the five 50+-year-old houses in her market analysis, she stressed, had reportedly been demolished.

Tenn. Code Ann. section 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

Since the taxpayer seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

It could well be, as the taxpayers maintained, that most if not all of the present value of their property lies in the land. Yet of the five improved sales highlighted by Mr. Kirkland (i.e., involving older homes with the same number of rooms), only two occurred within two years of the relevant assessment date; and the prices per square foot for those two houses – 420 Colonial Road and 4958 Shady Grove – were \$106.61 and \$110.81, respectively. Moreover, even assuming that the other three (2002) sales should be regarded as the equivalent of land transactions, the lowest of the three sale prices was still \$298,500; and all of those properties had less acreage as the parcel in question. Finally, the administrative judge cannot ignore the fact that none of the six Shady Grove houses identified on the "master" list of comparables introduced by Mr. Kirkland sold for less than \$110 per square foot.

For these reasons, the administrative judge must respectfully reject the appellants' propounded value (\$280,000) and recommend affirmation of the value determined by the county board.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2005:

| LAND VALUE | IMPROVEMENT VALUE | TOTAL VALUE | ASSESSMENT |
|------------|-------------------|-------------|------------|
| \$194,400 | \$175,000 | \$369,400 | \$92,350 |

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of

²It should be noted that one of these houses (420 Colonial Road) was about 40% smaller than the subject.

the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 5th day of May, 2006.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: Joseph T. Kirkland, Jr., Esq.
Tameaka Stanton-Riley, Appeals Manager, Shelby County Assessor's Office
Rita Clark, Assessor of Property

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